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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,837	04/12/2004	Robert Paul Linse	003709.00004	1751
22907	7590	11/03/2006		
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			EXAMINER GILBERT, WILLIAM V	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,837

Applicant(s)

LINSE, ROBERT PAUL

Examiner

William V. Gilbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13, 15, 16, 20-25 and 28-32 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 12-14, 17-19, 26, 27 and 33-35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Basil K. Miller
BASIL K. MILLER
PRINTED NAME 10/30/06

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/05/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a First Action on the Merits. Claims 1-35 are pending and examined as set forth below.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first sidewall is free from being parallel with the second sidewall" (Claims 4, 23) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of

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the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the walls of the channel as non-parallel (Page 8, paragraph 28) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

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description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. **Claims 12, 13** are objected to because of the following informalities: Applicant refers to "a building"; however, only the system (footing, support stand and skirting panel, per Claim 1) is being claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 10-13, 15, 16, 20-25, 28-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Younes (U.S. Patent No. 5,118,217).

Regarding Claim 1, Younes discloses a system with a footing (Figure 1, element 25) having an elongated channel, a support stand (elements 43, 61, 72, 73) with a plurality of support members (See Figure 2) that extend in a common vertical plane and a base (60), and a skirting panel positioned within the channel (A).

Regarding Claim 2, the base (60) has a portion that extends within the channel (15) and the base is between the skirting panel (A) and a sidewall.

Regarding Claim 3, the channel has a central longitudinal axis that is offset from the longitudinal axis from the footing (see Figure 3).

Regarding Claim 4, the channel has a base (17) and first and second sidewalls extending upwardly from the base of the channel such that the first sidewall is free of being parallel with the second sidewall (18).

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Regarding Claim 5, the footing has a slot (20) extending within the footing that has a longitudinal axis that extends at an angle to the longitudinal axis of the channel.

Regarding Claim 6, the longitudinal axis is equally spaced from the first and second outer sidewalls of the footing and the longitudinal axis of the channel is spaced closer to the first outer sidewall than to the second outer sidewall (see Figure 3).

Regarding Claim 10, the base of the support (59, 60) includes a first elongated portion positioned in the channel (60) and a second portion extending at an angle to the first portion (18) and outside the channel.

Regarding Claim 11, the support members (43, 61, 72, 73) converge to each other along the length in a direction away from the base (see Figure 2).

Regarding Claim 12, the support members include a first terminal end secured to the base (59) and a second terminal end secured to an apparatus (72, 73, and angle piece connected by 72, 73). Regarding the building, see Claim objection above).

Regarding Claim 13, the apparatus comprises a turnbuckle (72, 73) and a threaded member is received in the turnbuckle.

Regarding Claim 15, the support members are formed of an angle (Figure 3, element connected by elements 72, 73).

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Regarding Claim 16, the base of the support stand is u-shaped (59).

Regarding Claim 20, Younes discloses a system with a footing (Figure 1, element 25) having an elongated channel, a support assembly comprising a plurality of support members (Figure 2) with a base (59, 60), the base having a portion received in the channel of the footing (60), and a skirting panel positioned within the channel (A), such that a portion of the base is positioned between the panel and sidewall of the channel.

Regarding Claim 21, the prior art of record discloses a support stand (elements 43, 61, 72, 73) with a support member (See Figure 2) that extends in a common vertical plane,

Regarding Claim 22, the channel has a central longitudinal axis that is parallel to and offset from the longitudinal axis of the footing.

Regarding Claim 23, the channel has a base (17) and first and second sidewalls extending upwardly from the base of the channel such that the first sidewall is free of being parallel with the second sidewall (18).

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Regarding Claim 24, the footing has a slot (20) extending within the footing that has a longitudinal axis that extends at an angle to the longitudinal axis of the channel.

Regarding Claim 25, the longitudinal axis is equally spaced from the first and second outer sidewalls for the footing and the longitudinal axis of the channel is spaced closer to the first outer sidewall than to the second outer sidewall (see Figure 3).

Regarding Claim 28, the support members (43, 61, 72, 73) converge to each other along the length in a direction away from the base (see Figure 2).

Regarding Claim 29, the support members include a first terminal end secured to the base (59) and a second terminal end secured to an apparatus (72, 73, and angle piece connected by 72, 73). Regarding the building, see Claim objection above.

Regarding Claim 30, the apparatus comprises a turnbuckle (72, 73) and a threaded member is received in the turnbuckle.

Regarding Claim 31, the support members are formed of an angle (Figure 3, element connected by elements 72, 73).

Regarding Claim 32, the base of the support stand is U-shaped (59).

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title; if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Younes in view of Joubert (U.S. Patent No. 4,830,543).

Regarding Claim 9, Younes discloses the claimed invention except that the flooring has a trapezoidal cross section. Joubert discloses a footing that is trapezoidal in cross section (Figures 2, 3). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the footing in Younes with a trapezoidal cross-section because this shape provides additional anchorage by having a narrow top and wide bottom and would lower the center of gravity of the footing creating greater stability.

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Allowable Subject Matter

5. Claims 7, 8, 14, 17-19, 26, 27, 33-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding Claims 7, 9, 26, 27, the prior art of record does not disclose a passage for receiving an anchoring rod and an opening along the outer surface of the sidewall the footing and an opening extending along the base of the footing.

Regarding Claim 14, the prior art of record does not disclose a turnbuckle between the support members.

Regarding Claims 17 and 33, the prior art of record does not disclose a portion of the T-shaped base (of the support) extending along the support members and secured to the support member.

Regarding Claims 18, 19, 34, 35, the prior art of record does not disclose only two support members or only three support members.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Krill et al. (U.S. Patent No. 6,450,733 B1); McConnell (U.S. Patent No.

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100,431); Bennett (U.S. Patent No. 6,443,655 B1); Rumsey, Jr.
(U.S. Patent No. 3,195,312); Butler, Jr. (U.S. Patent No.
6,141,936).

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to William
V. Gilbert whose telephone number is 571.272.9055. The examiner
can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are
unsuccessful, the examiner's supervisor, Naoko Slack can be
reached on 571.272.6848. The fax phone number for the
organization where this application or proceeding is assigned is
571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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30 Oct 2006

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BASIL KOFFER
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10/30/06